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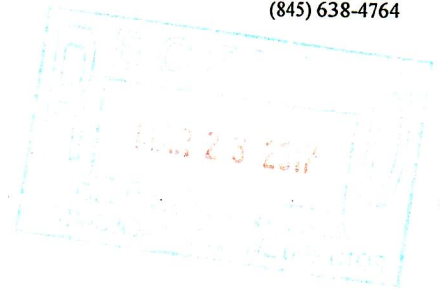
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March 16, 2017

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Via Regular Mail & Email: comments.mailbox@njcourts.gov

Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Rules Comments

Hughes Justice Complex; PO Box 037

Trenton, NJ 08625-0037

**Re: Proposed Amendment to Rule 1:40-4(b) Mediation – General Rules,
Compensation and Payment of Mediators Serving in the Civil and Family
Economic Programs**

Dear Mr. Grant:

I am writing at the Committee's invitation to comment on the above captioned Proposed Rule Amendment for *Rule 1:40-4(b)*.

I have been an Economic Mediator since the inception of the program. As I am sure you are aware, Economic Mediation of family matters has been a highly successful program over the years and one that should be continued, even expanded, if at all possible. Conducting economic mediations, frankly, has become a large part of my practice. I am happy to devote the two (2) hours of *pro bono* time (I also charge for any time beyond the *pro bono* allowance at a significantly reduced hourly rate). Of course, there are many fantastic Mediators who are part of this program that do the same.

I think the Rule(s) should *encourage attorneys to conduct* (or continue to conduct) *economic mediations* and *not discourage* them from doing so. I believe the proposed rule change referenced above is discouraging (to say the least) and can in one sense be interpreted as punitive towards Mediators.

Requiring mediators to collect fees for their time spent *resolving* litigation with a method actually *creates* new litigation (Law Division filings) makes zero sense to me.

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The Family Court Judge who is in charge of an entire case from start to finish **certainly has the best “handle”** on particular cases assigned to him or her and **should continue to be empowered with the ability to make decisions (and enter Orders)** to ensure outside professionals are paid fairly and in timely fashion.

Currently, the procedure for a fee collection application to the Court is for the Mediator to **file an Order to Show Cause** supported by a Certification detailing his or her efforts and supported by the billing statement for the Court’s review. **The litigants are, of course, given opportunity to respond in due course.**

As a practical matter; the mere filing of such an application usually results in the delinquent party paying their bill (and usually prior to the return date of the application).

Simply put, in my opinion, a **Judge who is handling a particular Family Part case is in the best position to make fair and quick decisions** regarding payment to outside professional for their time and effort exerted in a particular case.

I thank you for taking the time to read my thoughts and observations. I would be more than happy to provide any additional information or appear for any meetings should my input be helpful to the Committee.

Thank you for your attention.

Very truly yours,

KELLY, KELLY & MAROTTA, LLC

By: _____

Mark P. Marotta

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